

REMARKS

Request for Reconsideration

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remain of the opinion that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the above amendments to the claims and the following remarks.

Claims Status

Claims 2-5 are pending in this Application.

Claim 2 has been amended herein to recite that the device is a folder generating device and to recite that the device has a folder generating section to make a folder having the generated folder name and write the file of the specific format into the folder. Probably, the best support for this amendment is found in the paragraph bridging pages 21 and 22 wherein it states that step S107 in Figure 3 makes a folder having the created folder name and writes the image data obtained through reading in the folder.

It is respectfully submitted that this amendment should be entered at this time, even though this is a Final Action, because it addresses the Examiner's rejection under 101 and is deemed to have been inherent in the claims as presented.

101 Rejection

Claims 2-5 have been rejected under 35 USC 101 as not being directed to statutory subject matter. Specifically, the Examiner had stated that the claims were directed to abstract ideas. The Examiner did not point to any specific abstract idea which was deemed to be recited in the claims; however, it is presumed that the Examiner was referring to the fact that the claims were directed to a device that created a folder name rather than a specific item such as a folder.

In order to address this rejection, Applicants have amended their claims to recite that the device generates a folder and have added a specific section for folder generating. It is submitted that the claims inherently possessed such a limitation and that the Examiner's examination covered such claimed subject matter. Thus, the amendment made herein is to simply present the claims in a format which is more acceptable to U.S. practice rather than

to amend the claims to distinguish over the art. As will be noted below, the claims already distinguish over the cited references.

Prior Art Rejection

Claims 2-5 had been rejected as being unpatentable over a combination of Sawdon and Russon.

Applicants submit that neither Sawdon nor Russon teach either the judging section or the transmitting section as recited in the claims and, as such, the claims are patentable over Sawdon and Russon.

In the Office Action, the Examiner took the position that Russon teaches the judging section and cite to Column 1, lines 57-60; and that Russon teaches a transmitting section citing Column 1, lines 28-38.

Russon teaches a system which contains metadata. The system in Russon specifically seeks out metadata and then retains it in a separate file, see Column 3, lines 30-40. Russon teaches that, after the system searches for the metadata in previous files, if it cannot find the metadata, it takes no further action, see Column 6, lines 45-47. Thus,

there is no teaching or suggestion in Russon for judging section which determines whether a file is obtained from a digital camera or from a film scanner. Thus, Russon does not judge whether the file is obtained from a digital camera or a film scanner and cannot anticipate nor make obvious judging the claims as presented herein.

Furthermore, Russon does not teach a transmitting section as recited herein. Russon specifically states that its system takes no further action if it cannot find the metadata in its own files, see Column 6, lines 45-47. Thus, Russon is not teaching a transmitting section which asks the user for additional information if it cannot find that information in the file.

Respectfully, Russon does not teach either a judging section or a transmitting section as recited in the claims because Russon does not judge whether the data is obtained from a digital camera as opposed to a film scanner; and does not ask the user for information if it judges that the images were captured from a film scanner.

Sawdon does not add the missing elements to Russon and, therefore, the combination of Sawdon and Russon cannot teach the present Invention.


Thus, it is respectfully submitted that the present Invention is patentable over Russon or Sawdon taken alone or in combination.

Conclusion

In view of the foregoing, it is respectfully submitted that the Application is in condition for allowance and such action is respectfully requested. Should any further fees or extensions of time be necessary in order to maintain this Application in pending condition or to consider the enclosed Information Disclosure Statement, appropriate requests are hereby made and authorization is given to debit Account #02-2275.

Respectfully submitted,

LUCAS & MERCANTI, LLP

By: 
Donald C. Lucas, Reg. #31,275
(Attorney for Applicants)
475 Park Avenue South
New York, New York 10016
Tel. # (212) 661-8000

DCL/mr